

NOTIFICATION

LAW DEPARTMENT

No. LAW 70 LCA 66, Bangalore dated 17th January 1967.

Ordered that the Employees' State Insurance (Amendment) Act, 1966 (44 of 1966), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated the 11th December 1966 be republished in the *Mysore Gazette* for general information.

By Order and in the name of the Governor of Mysore,

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H. K. ANANTHASUBBA RAO,
Under Secretary to Govt., L. D.

Act No. 44 of 1966

Assented to on 11th December 1966.

THE EMPLOYEES' STATE INSURANCE
(AMENDMENT) ACT, 1966

AN

ACT

further to amend the Employees' State Insurance Act, 1948.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. Short title, commencement and application.—(1) This Act may be called the Employees' State Insurance (Amendment) Act, 1966.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States or for different parts thereof.

(3) When the provisions of this Act amending the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), (hereinafter referred to as the principal Act) relating to sickness and maternity benefits come into force in any State or any part of a State, then, those provisions of the principal Act as amended by this Act shall apply to any employee in that State or part only on (and not before) the expiry of the contribution period of such employee in force on the date of the coming into force of the said provisions of this Act.

2. Amendment of Section 2.—In Section 2 of the principal Act,—

(1) after clause (6), the following clause shall be inserted, namely :—

‘(6A) “dependant” means any of the following relatives of a deceased insured person, namely :—

- (i) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother; and
- (ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of eighteen years and is infirm ;
- (iii) if wholly or in part dependent on the earnings of the insured person at the time of his death,—
 - (a) a parent other than a widowed mother,
 - (b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,
 - (c) a minor brother or an unmarried sister or a widowed sister if a minor,
 - (d) a widowed daughter-in-law,
 - (e) a minor child of a pre-deceased son,

(f) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(g) a paternal grand-parent if no parent of the insured person is alive;";

(2) for clause (8), the following clause shall be substituted, namely.—

'(8) "employment injury" means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;";

(3) in clause (9),—

(a) for the words "but does not include—", the following words shall be substituted, namely:—

"and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products of, the factory or establishment; but does not include—";

(b) for sub-clause (b), the following sub-clause shall be substituted, namely:—

"(b) any person so employed whose wages (excluding remuneration for overtime work) exceed five hundred rupees a month:

Provided that an employee whose wages (excluding remuneration for overtime work) exceed five hundred rupees a month at any time after (and not before) the beginning of the contribution period, shall continue to be an employee until the end of that period;";

(4) in clause (11), the words "where the insured person is a male," shall be omitted;

5) in clause (12),—

(a) in the first paragraph,—

- (i) for the words “are working or were working”, the words “are employed or were employed for wages” shall be substituted ;
- (ii) for the words and figures “Indian Mines Act, 1923” 4 of 1923, the words figures “Mines Act, 1952” 35 of 1952 shall be substituted ;

(b) in the second paragraph, the following shall be added at the end, namely :—

“and includes a factory which is engaged for a period not exceeding seven months in a year—

(a) in any process of blending, packing or repacking of tea or coffee ; or

(b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify”;

(6) after clause (13), the following clause shall be inserted, namely :—

“(13A) “insurable employment” means an employment in a factory or establishment to which this Act applies;”;

(7) after clause (14), the following clauses shall be inserted, namely :—

“(14A) “managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person’s trade or business, but does not include an individual manager subordinate to an employer ;

(14B) “mis-carriage” means expulsion of the contents of a pregnant uterus at any period to or during the twenty-sixth week of pregnancy but does not include any mis-carriage, the causing of which is punishable under the Indian Penal Code 45 of 1860 ;”;

(8) after clause (15), the following clauses shall be inserted, namely :—

‘(15A) “permanent partial disablement” means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement :

Provided that every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement ;

(15B) “permanent total disablement” means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement :

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Second Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent, or more ;’;

(9) in clause (21), for the word “work” occurring at the end, the words “doing the work which he was doing prior to or at the time of the injury” shall be substituted ;

(10) in clause (22), after the words “and includes”, the words “any payment to an employee in respect of any period of authorised leave, lock-out, strike which is not illegal or lay-off and ” shall be inserted ;

(11) for clause (24), the following clause shall be substituted, namely :—

“(24) all other words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947, (14 of 1947.) shall have the meanings respectively assigned to them in that Act.”.

3. Insertion of new Section 2 A.—In Chapter I of the principal Act, after Section 2, the following Section shall be inserted, namely :—

“2A. Registration of factories and establishments.—Every factory or establishment to which this Act applies shall be registered within such time and in such manner as may be specified in the regulations made in this behalf.”

4. Amendment of Section 4.—In Section 4 of the principal Act,—

(a) for clauses (a) and (b), the following clauses shall be substituted, namely :—

“(a) a Chairman to be nominated by the Central Government;

(b) a Vice-Chairman to be nominated by the Central Government.”;

(b) in clause (c), the words “of whom at least three shall be officials of the Central Government” shall be omitted;

(c) in clause (h), the word “and” occurring at the end shall be omitted;

(d) for clause (i), the following clauses shall be substituted, namely :—

“(i) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States; and

(j) the Director General of the Corporation, *ex-officio*.”.

5. Amendment of Section 5.—In Section 5 of the principal Act,—

(a) in sub-section (1), for the words, brackets, letters and figure “the *ex-officio* members and member referred to

in clauses (c), (d) and (e) of Section 4," the words, brackets, letters and figure "the members referred to in clauses (a), (b), (c), (d) and (e) of Section 4 and the *ex-officio* member," shall be substituted;

(b) in sub-section (2), for the brackets, letters and word "(c), (d) and (e)", the brackets, letters and word "(a), (b), (c), (d) and (e)" shall be substituted.

6. Substitution of new Section for Section 7.—For section 7 of the principal Act, the following Section shall be substituted, namely:—

"7. Authentication of orders, decisions, etc.—All orders and decisions of the Corporation shall be authenticated by the signature of the Director General of the Corporation and all other instruments issued by the Corporation shall be authenticated by the signature of the Director General or such other officer of the Corporation as may be authorised by him."

7. Amendment of Section 8.—In Section 8 of the principal Act,—

(a) in clause (b), for the words "being officials of the Central Government, nominated by that Government", the words "nominated by the Central Government" shall be substituted;

(b) in clause (c),—

(i) for the word "six", the word "eight" shall be substituted;

(ii) in sub-clauses (ii) and (iii), for the word "two" the word "three" shall be substituted;

(c) after clause (c), the following clause shall be inserted, namely:—

"(d) the Director General of the Corporation, *ex-officio*."

8. Amendment of Section 10.—In Section 10 of the principal Act, to sub-section (2), the following proviso shall be added, namely :—

“Provided that a member of the Medical Benefit Council shall, notwithstanding the expiry of the said period of four years continue to hold office until the nomination of his successor is notified.”.

9. Amendment of Section 12.—In Section 12 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) A person referred to in clause (i) of Section 4 shall cease to be a member of the Corporation when he ceases to be a member of Parliament.”.

10. Amendment of Section 16.—In Section 16 of the principal Act, in sub-section (3), after the words “the Central Government”, the words “and of the Corporation” shall be inserted.

11. Amendment of Section 17.—In Section 17 of the principal Act,—

(a) in sub-section (3), for the words “posts carrying a maximum monthly pay of five hundred rupees and above”, the words and figures “posts corresponding to Class I or Class II posts under the Central Government” shall be substituted ;

(b) after sub-section (3), the following sub-section shall be inserted, namely :—

“(4) If any question arises whether a post corresponds to a Class I or Class II post under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.”.

12. Omission of Sections 27 and 31.—Sections 27 and 31 of the principal Act shall be omitted.

13. Amendment of Section 36.—In Section 36 of the principal Act, after the words “the audited accounts of the Corporation”, the words and figures “together with the auditor’s report thereon under Section 34” shall be inserted.

14. Amendment of Section 41.—In Section 41 of the principal Act, the *Explanation* occurring at the end shall be omitted.

15. Amendment of Section 42.—In Section 42 of the principal Act,—

(a) in sub-section (1), for the words “one rupee”, the words “one rupee and fifty paise” shall be substituted;

(b) in sub-section (2), for the words “during the whole or part of which an employee is employed” occurring at the end, the words “in respect of the whole or part of which wages are payable to the employee and not otherwise”, shall be substituted;

(c) sub-sections (4) and (5) shall be omitted.

16. Amendment of Section 43.—In Section 43 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

“(bb) the date by which evidence of contributions having been paid is to be received by the Corporation;”.

17. Insertion of new sections 45A and 45B.—In Chapter IV of the principal Act, after Section 45, the following Sections shall be inserted, namely:—

“45A. Determination of contributions in certain cases.—

(1) Where in respect of a factory or establishment no returns, particulars, registers or records are submitted, furnished or maintained in accordance with the provisions of Section 44 or any Inspector or other official of the Corporation referred to in sub-section (2) of Section 45 is obstructed by the principal or immediate employer or any other person, in exercising his functions or discharging his duties under

Section 45, the Corporation may, on the basis of information available to it, by order, determine the amount of contributions payable in respect of the employees of that factory or establishment.

(2) An order made by the Corporation under sub-section (1) shall be sufficient proof of the claim of the Corporation under Section 75 or for recovery of the amount determined by such order as an arrear of land revenue under Section 45B.

45B. Recovery of contributions.—Any contribution payable under this Act may be recovered as an arrear of land revenue.”.

18. Amendment of Section 46.—In Section 46 of the principal Act, in sub-section (1),—

(a) for the words “or, as the case may be, their dependants”, the words “their dependants or the persons hereinafter mentioned, as the case may be,” shall be substituted;

(b) in clause (a), after the words “medical practitioner” the following words shall be inserted, namely :—

“or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf”;

(c) for clause (b), the following clause shall be substituted, namely :—

“(b) periodical payments to an insured woman in case of confinement or mis-carriage or sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit) :”;

(d) in clause (d), the word “and” occurring at the end shall be omitted;

(e) in clause (e), the word "and" shall be inserted at the end and after that clause, the following clause shall be inserted, namely:—

"(f) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as funeral benefit):

Provided that the amount of such payment shall not exceed one hundred rupees and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow."

19. Substitution of new section for section 47.—For section 47 of the principal Act, the following section shall be substituted, namely:—

"47. When person eligible for sickness benefit.—A person shall be qualified to claim sickness benefit for sickness occurring during any benefit period, if during the corresponding contribution period, weekly contributions in respect of him were payable for not less than thirteen weeks:

Provided that a person shall be qualified to claim sickness benefit for sickness occurring during the first benefit period if, during the corresponding contribution period weekly contributions in respect of him were payable for not less than half the number of weeks of that contribution period, ending in that period."

20. Omission of section 48.—Section 48 of the principal Act shall be omitted.

21. Amendment of section 49.—In section 49 of the principal Act,—

(a) for the words “Second Schedule”, the words “First Schedule” shall be substituted;

(b) in the first proviso, for the words “for an initial waiting period of two days”, the words “for the first two days of sickness” shall be substituted;

(c) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that sickness benefit shall not be paid to any person for more than fifty-six days in any two consecutive benefit periods.”.

22. Amendment of section 50.—In section 50 of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures “two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions”, the words “thirteen weeks” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that an insured woman shall be qualified to claim maternity benefit for a confinement occurring or expected to occur during the first benefit period, if during the corresponding contribution period weekly contributions in respect of her were payable for not less than half the number of weeks of that contribution period ending in that period.”;

(b) in sub-section (2),—

(i) for the word, brackets and figure “sub-section (3)”, the words “the First Schedule” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely :—

“Provided that where the insured woman dies during her confinement or during the period of six weeks immediately following her confinement for which she is entitled to maternity benefit, leaving behind in either case the child, maternity benefit shall be paid for the whole of that period but if the child also dies during the said period, then, for the days up to and including the day of the death of the child, to the person nominated by the insured woman in such manner as may be specified in the regulations and if there is no such nominee to her legal representative.”;

(c) for sub-section (3), the following sub-sections shall be substituted, namely :—

“(3) An insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall, in case of mis-carriage, be entitled, on production of such proof as may be required under the regulations, to maternity benefit at the rates specified in the First Schedule for all days on which she does not work for remuneration during a period of six weeks immediately following the date of her mis-carriage.

(4) An insured woman who is qualified to claim maternity benefit in accordance with sub-section (1), in case of sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage shall, on production of such proof as may be required under the regulations, be entitled, in addition to the maternity benefit payable to her under any other provisions of this Act for all days on which she does not work for remuneration, to maternity benefit at the rates specified in the First Schedule for all days on which she does not work for remuneration during an additional period not exceeding one month.”.

23. Substitution of new sections for section 51.—For section 51 of the principal Act, the following sections shall be substituted, namely:—

‘51. Disablement benefit.—Subject to the provisions of this Act and the regulations, if any,—

(a) a person who sustains temporary disablement for not less than three days (excluding the day of accident) shall be entitled to periodical payment for the period of such disablement in accordance with the provisions of the First Schedule;

(b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment for such disablement in accordance with the provisions of the First Schedule:

Provided that where permanent disablement, whether total or partial, has been assessed provisionally for a limited period or finally, the benefit provided under this clause shall be payable for that limited period or, as the case may be, for life.

51A. Presumption as to accident arising in course of employment.—For the purposes of this Act, an accident arising in the course of an insured person's employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.

51B. Accidents happening while acting in breach of regulations, etc.—An accident shall be deemed to arise out of and in the course of an insured person's employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(a) the accident would have been deemed so to have arisen had the act not been done in contravention as

aforesaid or without instructions from his employer, as the case may be; and

(b) the act is done for the purpose of and in connection with the employer's trade or business.

51C. Accidents happening while travelling in employer's transport—(1) An accident happening while an insured person is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—

(a) the accident would have been deemed so to have arisen had he been under such obligation; and

(b) at the time of the accident, the vehicle—

(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer, and

(ii) is not being operated in the ordinary course of public transport service.

(2) In this section "vehicle" includes a vessel and an aircraft.

51D. Accidents happening while meeting emergency.—An accident happening to an insured person in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.'

24 Substitution of new sections for section 52.—For section 52 of the principal Act, the following sections shall be substituted namely :—

'52. Dependant's benefit.—(1) If an insured person dies as a result of an employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury) dependants' benefit shall be payable in accordance with the provisions of the First Schedule to his dependants specified in sub-clause (i) and sub-clause (ii) of clause (6A) of section 2.

(2) In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased in accordance with the provisions of the First Schedule.

52A. Occupational disease.—(1) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury" arising out of and in the course of employment.

(2) (i) Where the Central Government or a State Government, as the case may be, adds any description of employment to the employments specified in Schedule III to the Workmen's Compensation Act, 1923, (8 of 1923) by virtue of the powers vested in it under sub-section (3) of section 3 of the said Act, the said description of employment and the occupational diseases specified under that

sub-section as peculiar to that description of employment shall be deemed to form part of the Third Schedule.

(ii) Without prejudice to the provisions of clause (i), the Corporation after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a likenotification, add any description of employment to the employments specified in the Third Schedule and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of this Act shall apply, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(3) Save as provided by sub-sections (1) and (2), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(4) The provisions of section 51A shall not apply to the cases to which this section applies.'

25. Substitution of new section for section 53.—For section 53 of the principal Act, the following section shall be substituted, namely:—

"53. Bar against receiving or recovery of compensation or damages under any other law.—An insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen's Compensation Act, 1923, (8 of 1923) or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act."

26. Substitution of new sections for section 54.—For section 54 of the principal Act, the following sections shall be substituted, namely :—

'54. Determination of question of disablement.—Any question—

(a) whether the relevant accident has resulted in permanent disablement; or

(b) whether the extent of loss of earning capacity can be assessed provisionally or finally; or

(c) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or

(d) in the case of provisional assessment, as to the period for which such assessment shall hold good, shall be determined by a medical board constituted in accordance with the provisions of the regulations and any such question shall hereafter be referred to as the "disablement question".

54A. References to medical boards and appeals to medical appeal tribunals and Employees' Insurance Courts.—(1) The case of any insured person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement question and if, on that or any subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

(2) If the insured person or the Corporation is not satisfied with the decision of the medical board, the insured person or the Corporation may appeal in the prescribed manner and within the prescribed time to—

(i) the medical appeal tribunal constituted in accordance with the provisions of the regulations with a further right of appeal in the prescribed manner and within the prescribed time to the Employees' Insurance Court, or

(ii) the Employees' Insurance Court directly.',

27. Substitution of new sections for section 55.—For section 55 of the principal Act, the following sections shall be substituted, namely :—

"55. Review of decisions by medical board or medical appeal tribunal.—(1) Any decision under this Act of a medical board or a medical appeal tribunal may be reviewed at any time by the medical board or the medical appeal tribunal, as the case may be, if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

(2) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board, if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury :

Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it.

(3) Except with the leave of a medical appeal tribunal, an assessment shall not be reviewed under sub-section (2) on any application made less than five years, or in the case of a provisional assessment, six months from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(4) Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional

assessment notwithstanding that the assessment under review was final ; and the provisions of section 54A shall apply to an application for review under this section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that section and to a decision of the medical board in connection with such case.

55A. Review of dependants' benefit.—(1) Any decision awarding dependants' benefit under this Act may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Act due to any birth or death or due to the marriage, re-marriage or cesser of infirmity of, or attainment of the age of eighteen years by, a claimant.

(2) Subject to the provisions of this Act, the Corporation may, on such review as aforesaid, direct that the dependants benefit be continued, increased, reduced or discontinued.”.

28. Insertion of new section 59A.—After section 59 of the principal Act, the following section shall be inserted, namely :—

“ 59A. Provision of medical benefit by the Corporation in lieu of State Government.—1 Notwithstanding anything contained in any other provision of this Act, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to insured persons and where such medical benefit is extended to their families, to the families of such insured persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.

(2) In the event of the Corporation exercising its power under sub-section (1), the provisions relating to medical benefit under this Act shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.”.

29. Omission of sections 66 and 67.— Sections 66 and 67 of the principal Act shall be omitted.

30. Amendment of section 71.—In section 71 of the principal Act, for the words “If a person dies”, the words, brackets and figures “Except as provided in the proviso to sub-section (2) of section 50, if a person dies” shall be substituted.

31. Omission of section 73 H.—Section 73 H of the principal Act shall be omitted.

32. Amendment of section 75.—In section 75 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (ee), the following clause shall be substituted, namely :—

“(ee) any direction issued by the Corporation under section 55A on a review of any payment of dependants’ benefits, or”;

(ii) clause (f) shall be omitted :

(iii) in clause (g) the following words shall be inserted at the end, namely :—

“or any other matter required to be or which may be decided by the Employees’ Insurance Court under this Act”;

(iv) after the words “such question or dispute”, the words, brackets, figure and letter “subject to the provisions of sub-section (2A)” shall be inserted;

(b) in sub-section (2),—

(i) for the words "The following claims", the words, brackets, figure and letter "Subject to the provisions of sub-section (2A), the following claims" shall be substituted;

(ii) clause (c) shall be omitted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) If in any proceedings before the Employees' Insurance Court a disallowment question arises and the decision of a medical board or a medical appeal tribunal has not been obtained on the same and the decision of such question is necessary to the determination of the claim or question before the Employees' Insurance Court, that Court shall direct the Corporation to have the question decided by this Act and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the medical appeal tribunal, as the case may be, except where an appeal has been filed before the Employees' Insurance Court under sub-section (2) of section 54A in which case the Employees' Insurance Court may itself determine all the issues arising before it.";

(d) in sub-section (3), for the words "the Employees' Insurance Court", the words "a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court" shall be substituted.

33. Amendment of section 77.—In section 77 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Every such application shall be made within a period of three years from the date on which the cause of action arose.

Explanation.—For the purpose of this sub-section,—

(a) the cause of action in respect of a claim for benefit shall not be deemed to arise unless the insured

person or in the case of dependants' benefit, the dependants of the insured person claims or claim that benefit in accordance with the regulations made in that behalf within a period of twelve months after the claim became due or within such further period as the Employees' Insurance Court may allow on grounds which appear to it to be reasonable;

(b) the cause of action in respect of a claim by the Corporation for recovering contributions from the principal employer or a claim by the principal employer for recovering contributions from an immediate employer shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Corporation under the regulations."

34. Omission of section 80.—Section 80 of the principal Act shall be omitted.

35. Amendment of section 86.—In section 86 of the principal Act, in sub-section (1), for the words "Central Government", the words "Director General of the Corporation" shall be substituted.

36. Amendment of section 90.—In section 90 of the principal Act,—

(a) after the words "The appropriate Government may," the words "after consultation with the Corporation," shall be inserted;

(b) after the words "local authority", the words "from the operation of this Act" shall be inserted.

37. Insertion of new section 91A.—After section 91 of the principal Act, the following section shall be inserted, namely:—

"91A. Exemptions to be either prospective or retrospective—Any notification granting exemption under section 87, section 88, section 90 or section 91 may be issued

so as to take effect either prospectively or retrospectively on such date as may be specified therein.”.

38. Amendment of section 95.—In section 95 of the principal Act,—

(a) in sub-section (1), after the words “the Central Government may,” the words after consultation with the Corporation and” shall be inserted ;

(b) in sub-section (2), after clause (e) the following clause shall be inserted, namely :—

“(ee) the manner in which and the time within which appeals may be filed to medical appeal tribunals or Employees’ Insurance Courts;”;

(c) after sub-section (3) the following sub-section shall be inserted, namely:—

“(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

39. Amendment of section 96.—In section 96 of the principal Act, in sub-section (1), after the words “The State Government may,” the words “after consultation with the Corporation and” shall be inserted.

40. Amendment of section 97.—In section 97 of the principal Act, in sub-section (2),—

(a) after clause (i), the following clause shall be inserted, namely :—

“(ia) the time within which and the manner in which a factory or establishment shall be registered;”;

(b) after clause (iii), the following clause shall be inserted, namely:—

“(iia) the levy of interest at a rate not exceeding six per cent per annum on contributions due but not paid;”;

(c) for clause (vi), the following clause shall be substituted, namely:—

“(vi) the method of determining whether an insured person is suffering from one or more of the diseases specified in the Third Schedule;”;

(d) in clause (viii), for the words “and the form in which”, the words “and the form and manner in which” shall be substituted;

(e) after clause (xii), the following clauses shall be inserted, namely:—

“(xiiia) specifying the authority competent to give certificate of eligibility for maternity benefit;

“(xiib) the manner of nomination by an insured woman for payment of maternity benefit in case of her or her child's death;

“(xiic) the production of proof in support of claim for maternity benefit or additional maternity benefit;”;

(f) after clause (xvi), the following clauses shall be inserted, namely:—

“(xviiia) the qualifications and experience which a person should possess for giving certificate of sickness;

“(xviib) the constitution of medical boards and medical appeal tribunals;”.

41. Insertion of new section 99A.—After section 99 of the principal Act, the following section shall be inserted, namely:—

“**99A. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions, not

inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.”.

42. Substitution of new Schedules for Schedules I and II. — For Schedules I and II of the principal Act, the following Schedules shall be substituted, namely :—

‘THE FIRST SCHEDULE

(See sections 39, 49, 50, 51 and 52)

1. The amount of weekly contribution payable in a contribution period in respect of an employee shall be calculated with reference to the average daily wages during the first wage period in respect of that employee ending in such contribution period :

Provided that where an employee changes his employment during the currency of the contribution period, contributions in respect of him shall continue to be calculated during the said contribution period at the rate at which they were being paid in the first employment except when the employee does not disclose the earlier employment to the second or subsequent employer in which case they may be calculated with reference to the average daily wages during the first wage period in the latter employment.

2. The average daily wages shall be—

(a) in respect of an employee who is employed on time-rate basis, the amount of wages which would have been payable to him for the complete wage period had he worked on all the working days in that wage period, divided by 26 if he is monthly rated, 13 if he is fortnightly rated, 6 if he is weekly rated and 1 if he is daily rated ;

(b) in respect of an employee employed on any other basis, the amount of wages earned during the first complete

wage period in the contribution period divided by the number of days in full or part for which he worked for wages in that wage period:

Provided that where an employee receives wages without working on any day during such wage period he shall be deemed to have worked for 26, 13, 6 or 1 days or day if the wage period be a month, a fortnight, a week or a day respectively.

Explanation I.—Where any night shift continues beyond midnight, the period of the night shift after midnight shall be counted for reckoning the days worked as part of the day preceding.

Explanation II.—“Wage period” means the period in respect of which wages are ordinarily payable whether in terms of the contract of employment, express or implied or otherwise.

3. (a) For the purpose of fixing the amount of weekly contribution payable, employees shall be divided into nine groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2.

(b) The employee's contribution and employer's contribution payable in respect of the group of employees specified in the first column of the Table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof.

(c) The daily rate of benefit (hereinafter referred to as the “standard benefit rate”) in respect of the group of employees specified in the first column of the Table below shall be the amount respectively specified in the corresponding entry in the fifth column thereof:

Provided that where a person has been in more than one of the groups as specified in the first column of the said Table during a contribution period, the standard benefit rate in respect of him shall be the amount specified in the fifth column corresponding to the lowest of such groups.

TABLE

Group of employees whose average daily wages are	Employees weekly contribution (re- coverable from employees)	Employer's weekly contribution,	Total weekly con- tribution (emplo- yee's and emp- loyer's contri- bution)	Corresponding daily standard benefit rate
1	2	3	4	5
	P.	P.	P.	P.
1. Below Rs. 1	Nil	45	45	
2. Rs. 1 and above but below Rs. 1.50	Nil	45	45	65
3. Rs. 1.50 and above but below Rs. 2	25	50	75	90
4. Rs. 2 and above but below Rs. 3	40	80	120	180
5. Rs. 3 and above but below Rs. 4	50	100	150	175
6. Rs. 4 and above but below Rs. 6	70	140	210	250
7. Rs. 6 and above but below Rs. 8	95	190	285	350
8. Rs. 8 and above but below Rs. 15	125	250	375	500
9. Rs. 15 and above	175	350	525	850

4. The daily rate of sickness benefit in respect of a person during any benefit period shall be the standard benefit rate corresponding to the average daily wages of that person during the corresponding contribution period.

5. The daily rate of maternity benefit payable in respect of confinement occurring or expected to occur during any benefit period, shall be equal to twice the standard benefit rate corresponding to the average daily wages in respect of the insured woman during the corresponding contribution period.

6. (a) The daily rate of disablement and dependants' benefit shall be the rate, twenty-five per cent more than the standard benefit rate rounded to the next higher multiple of five paise corresponding to the average daily wages in the contribution period corresponding to the benefit period in which the employment injury occurs.

(b) Where an employment injury occurs before the commencement of the first benefit period in respect of a person, the daily rate of disablement and dependants' benefit shall be—

- (i) where a person sustains employment injury after the expiry of the first wage period in the contribution period in which the injury occurs, the rate, twenty-five per cent more than the standard benefit rate rounded to the next higher multiple of five paise corresponding to the wage group in which his average daily wages during that wage period fall;
- (ii) where the person sustains employment injury before the expiry of the first wage period in the contribution period in which the injury occurs, the rate, twenty-five per cent more than the standard benefit rate, rounded to the next higher multiple of five paise corresponding to the group in which wages actually earned or which would have been earned had he worked for a full day on the date of accident, fall.

The disablement or dependants' benefit rate calculated as aforesaid shall be called the "full rate".

7. The disablement benefit shall be payable to the insured person as follows:—

- (a) for temporary disablement, at the full rate;
- (b) for permanent total disablement at the full rate;
- (c) for permanent partial disablement resulting from an injury specified in Part II of the Second Schedule, at such percentage of the full rate which would have been

payable in the case of permanent total disablement as in specified in the said Schedule as being the percentage of the loss of earning capacity caused by that injury ;

(d) for permanent partial disablement resulting from an injury not specified in Part II of the Second Schedule, at such percentage of the full rate payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

Explanation.— Where more injuries than one are caused by the same accident, the rate of benefit payable under clauses (c) and (d) shall be aggregated but not so in any case as to exceed the full rate ;

(e) in cases of disablement not covered by clauses (a), (b), (c) and (d) at such rate not exceeding the full rate, as may be provided in the regulations.

8. In the case of death of the insured person, the dependants' benefit shall be payable to his widow and children as follows :—

(a) to the widow during life or until remarriage, an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows ;

(b) to each legitimate or adopted son, an amount equivalent to two-fifths of the full rate until he attains eighteen years of age :

Provided that in the case of a legitimate son who is infirm and who is wholly dependent on the earnings of the insured person at the time of his death, dependants' benefit shall continue to be paid while the infirmity lasts ;

(c) to each legitimate or adopted unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains eighteen years of age or until marriage, whichever is earlier :

Provided that in the case of a legitimate or adopted unmarried daughter who is infirm and is wholly dependent on

the earnings of the insured person at the time of his death, dependants' benefit shall continue to be paid while the infirmity lasts and she continues to be unmarried:

Provided further that if the total of the dependants' benefits distributed among the widow or widows and legitimate or adopted children of the deceased person as aforesaid exceeds at any time the full rate, the share of each of the dependants shall be proportionately reduced, so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

9. In case the deceased person does not leave a widow or legitimate or adopted child, dependants' benefit shall be payable to the other dependants as follows:—

(a) to a parent or grand-parent, for life, at an amount equivalent to three-tenths of the full rate and if there are two or more parents or grand-parents the amount payable to the parents or grand-parents as aforesaid shall be equally divided between them;

(b) to any other—

(i) male dependant, until he attains eighteen years of age,

(ii) female dependant, until she attains eighteen years of age or until marriage, whichever is earlier or if widowed until she attains eighteen years of age,

at an amount equivalent to two-tenths of the full rate provided that if there be more than one dependant under clause (b) the amount payable under this clause shall be equally divided between them.

THE SECOND SCHEDULE

[See section 2 (15A) and (15B)]

Serial No.	Description of injury	Percentage of loss of earning capacity
1	2	3

PART I

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL
DISABLEMENT

1	Loss of both hands or amputation at higher sites	... 100
2	Loss of a hand and a foot	... 100
3	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential	... 100
5	Very severe facial disfigurement	... 100
6	Absolute deafness	... 100

PART II

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL
DISABLEMENT*Amputation—upper limbs (either arm)*

7	Amputation through shoulder joint	... 90
8	Amputation below shoulder with stump less than 20.32 c.m. from tip of acromion	... 80
9	Amputation from 20.32 c.m. from tip of acromion to less than 11.43 c.m. below tip of olecranon	... 70
10	Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 c.m. below tip of olecranon	... 60
11	Loss of thumb	... 30
12	Loss of thumb and its metacarpal bone	... 40
13	Loss of four fingers of one hand	... 50
14	Loss of three fingers of one hand	... 30
15	Loss of two fingers of one hand	... 20
16	Loss of terminal phalanx of thumb	... 20

1	2	3
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Amputation—lower limbs

17	Amputation of both feet resulting in end-bearing stumps ...	
18	Amputation through both feet proximal to the metatarso-phalangeal joint ...	
19	Loss of all toes of both feet through the metatarso-phalangeal joint ...	
20	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint ...	30
21	Loss of all toes of both feet distal to the proximal inter-phalangeal joint ...	20
22	Amputation at hip ...	90
23	Amputation below hip with stump not exceeding 12.70 c.m. in length measured from tip of great trochanter ...	80
24	Amputation below hip with stump exceeding 12.70 c.m. in length measured from tip of great trochanter but not beyond middle thigh ...	70
25	Amputation below middle thigh to 8.89 c.m. below knee ...	
26	Amputation below knee with stump exceeding 8.89 c.m. but not exceeding 12.70 c.m. ...	50
27	Amputation below knee with stump exceeding 12.70 c.m. ...	40
28	Amputation of one foot resulting in end-bearing ...	80
29	Amputation through one foot proximal to the metatarso-phalangeal joint ...	30
30	Loss of all toes of one foot through the metatarso-phalangeal joint	

Other injuries

31	Loss of one eye, without complications, the other being normal	40
32	Loss of vision of one eye without complications or disfigurement of eye ball, the other being normal ...	30

Loss of—

A—Fingers of right or left hand

Index finger

33	Whole ...	14
34	Two phalanges ...	11
35	One phalanx ...	8
36	Guillotine amputation of tip without loss of bone ...	6

1	2	3
<i>Middle finger</i>		
37	Whole	... 12
38	Two phalanges	... 9
39	One phalanx	... 7
40	Guillotine amputation of tip without loss of bone	... 4
<i>Ring or little finger</i>		
41	Whole	...
42	Two phalanges	...
43	One phalanx	...
44	Guillotine amputation of tip without loss of bone	..
<i>B.—Toes of right or left foot</i>		
<i>Great toe</i>		
45	Through metatarsophalangeal joint	... 14
46	Part, with some loss of bone	... 3
<i>Any other toe</i>		
47	Through metatarsophalangeal joint	...
48	Part, with some loss of bone	..
<i>Two toes of one foot, excluding great toe</i>		
49	Through metatarsophalangeal joint	...
50	Part, with some loss of bone	...
<i>Three toes of one foot, excluding great toe</i>		
51	Through metatarsophalangeal joint	...
52	Part, with some loss of bone	...
<i>Four toes of one foot, excluding great toe</i>		
53	Through metatarsophalangeal joint	...
54	Part, with some loss of bone	...

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this schedule shall be deemed to be the equivalent of the loss of that limb or member.

THE THIRD SCHEDULE

(See section 52A)

LIST OF OCCUPATIONAL DISEASES

Occupational disease

Employment

PART A

Anthrax..... Any employment:—

(a) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs, and horns; or

(b) in connection with animals infected with anthrax; or

(c) involving the loading, unloading or transport of any merchandise.

Compressed air illness or its sequelae

Any process carried on in compressed air.

Poisoning by lead tetra-ethyl ...

Any process involving the use of lead tetra-ethyl.

Poisoning by nitrous fumes ...

Any process involving exposure to nitrous fumes.

Poisoning by organic phosphorus insecticides.

Any process involving the use or handling or exposure to the fumes, dust or vapour containing any of the organic phosphorus insecticides.

PART B

Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl.	Any process involving the handling or use of lead ore or lead or any of its preparations or compounds except lead tetra-ethyl.
Poisoning by phosphorus or its compounds, or its sequelae.	Any process involving the liberation of phosphorus or use or handling of phosphorus or its preparations or compounds.
Poisoning by mercury, its amalgams and compounds, or its sequelae.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene, or its homologues, their amido and nitro-derivatives or its sequelae.	Any process involving the manufacture, liberation, or use of benzene, benzene homologues and their amido and nitroderivatives.
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium potassium or sodium or their preparations or the manufacture of bichromate.
Poisoning by arsenic or its compounds, or its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Occupational disease	Employment
Pathological manifestations due to-	
(a) radium and other radio-active substances ;	Any process involving exposure to the action of radium, radio-active substances or X-rays.
(b) X-rays.	
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.

Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives.

Any process involving the manufacture, liberation and use of hydrocarbons of the aliphatic series and their halogen derivatives.

Poisoning by carbon disulphide or its sequelae

Any employment in—

- (a) the manufacture of carbon disulphide ; or
- (b) the manufacture of artificial silk by viscose process ; or
- (c) rubber industry or
- (d) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.

Occupational cataract due to infra-red radiations.

Any manufacturing process involving exposure to glare from molten material or to any other sources of infra-red radiations.

Telegraphist's Cramp

...

Any employment involving the use of telegraphic instruments.

Poisoning by manganese or a compound of manganese, or its sequelae

Any process involving the use of, or handling of, or exposure to the fumes, dust or vapour of manganese or a compound of manganese, or a substance containing manganese.

PART C

Silicosis	...	Any employment involving exposure to the inhalation of dust containing silica.
Coal Miners' Pneumoconiosis	...	Any employment in coal mining.
Asbestosis	...	Any employment in— (I) the production of— (i) fibro cement materials ; or (ii) asbestos mill board ; or (2) the processing of ores containing asbestos
Bagassosis	...	Any employment in the production of bagasse mill board or other articles from bagasse ;

43 Act not to apply to certain cases.—No provision of this Act shall apply to and in relation to any payment which has been, or is being, or is required to be, made under the principal Act in respect of any employment injury sustained by an employee in any State or part thereof at any time before the date of the coming into operation of that provision and any such payment and any application, appeal or other proceeding for or relating to such payment pending before any authority immediately before such date shall continue to be governed by the provisions of the principal Act as they stood immediately before that date.